

REMARKS

This communication is a full and timely response to the aforementioned non-final Office Action dated July 21, 2008. By this communication, claims 1-7 are amended, and claim 8 is added. Thus, claims 1-8 are pending in the application.

Reexamination and reconsideration of the application are requested in view of the foregoing amendments and the following remarks.

I. Amendments to the Specification

Minor editorial revisions have been made to the specification to correct informalities. Approval and entry of the amendments to the specification are respectfully requested.

II. Rejections Under 35 U.S.C. § 112

Claims 1-7 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the Office objected to the use of the term "and/or." Claim 1 has been amended to overcome its indefiniteness rejection. Applicant respectfully requests that the indefiniteness rejection be withdrawn in view of the amendments to claim 1.

III. Rejections Under 35 U.S.C. § 102(b)

Claims 1, 3, 4 and 7 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Pabst et al. (U.S. 4,524,626, hereinafter "Pabst"). This rejection is respectfully traversed for the following reasons.

Claim 1 recites a set for measuring the linear strain of materials. The set of claim 1 comprises at least two measuring elements, which are fitted with measuring blades having respective parallel axes, and which are attachable to the measured material for measuring a linear strain of the measured material.

An advantageous aspect of the above-described arrangement of the set of claim 1 is described, for example, in paragraph [0018] on page 5 of the specification.

Pabst discloses a device for measuring soil effective stress. As shown in Figure 1, the device of Pabst includes a frame 12 in which sensor means 14 are provided. The sensor means 14 include a flexible diaphragm 28, a porous filter 32,

and a strain gauge 36 bonded to the back side of the diaphragm 28. A passageway in the frame 12 provides communication between the filter 32 and the diaphragm so that the water pressure of soil is measured.

However, in contrast to claim 1, the sensor means 14 of Pabst are not disclosed or suggested to measure linear stress of a measured material. On the contrary, the device of Pabst is markedly different, in that the sensor means measure soil effective stress, not linear stress.

Accordingly, for at least the foregoing reasons, Applicant respectfully submits that Pabst does not disclose or suggest at least the measuring elements as recited in claim 1.

Therefore, Applicant respectfully submits that claim 1 is patentable over Pabst, since Pabst does not disclose or suggest all the recited features of claim 1.

Dependent claims 2-8 recite further distinguishing features over Pabst. The foregoing explanation of the patentability of claim 1 is sufficiently clear such that it is believed to be unnecessary to separately demonstrate the patentability of the dependent claims at this time. However, Applicant reserves the right to do should it become appropriate.

Applicant notes with appreciation the Examiner's indication that claims 2, 5 and 6 recite allowable subject matter. Claims 2, 5 and 6 are also patentable by virtue of their dependent relationship from claim 1, which is patentable over Pabst for the reasons presented above.

Accordingly, for at least the foregoing reasons, Applicant respectfully submits that claim 1, as well as claims 2-8 which depend therefrom, are patentable over the applied reference.

IV. Conclusion

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is clearly in condition for allowance. Accordingly, a favorable examination and consideration of the instant application are respectfully requested.

If, after reviewing this Amendment, the Examiner believes there are any issues remaining which must be resolved before the application can be passed to issue, the Examiner is respectfully requested to contact the undersigned by telephone in order to resolve such issues.

In the event that any additional fees are due with this paper, please charge our Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: October 21, 2008

By: /Jonathan R. Bowser/
Jonathan R. Bowser
Registration No. 54574

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620